194 L Legis 39-41 Serial No.

Previous references.

PRESERVED

Later references.

(56)

Office of the Secretary to the Representative Assembly and Legislative Council

Manuscript
"A" to May

SUBJECT.

The Mysore Insolvency (Amendment) Act 1942

To.

The Superintendent, Mysore Gazette

Order No RL 1318- Legis 39-41-1 dated 27-4

Orders the publication of the Act as Act No VIII of 1942

J. Venkatanarayanappa
19-5-42

WD 04023—GPB—1,000- 12-9-

C/f 51-30

FORM III. I

WD 405—GPB—2,000—2-9-27

Memorandum of ~~Resolutions~~ Subjects proposed to be moved in the ~~xxxxxxxx~~ Dasara ~~xxxxxx~~ Session of the Representative Assembly of the Shimoga District.

For the Dasara Session of September 192 8.

~~Subject~~	~~Resolution~~
No. 6	**Summary of Representation.**
Subject: Amendment to section 53 of the Mysore Insolvency Act.	It is prayed that section 53 of the Mysore Insolvency Act may be amended so as to conform to the provisions of section 53 of the provincial Insolvency Act of British India and that further a fresh section on the lines of section 59(a) of the provincial Insolvency Act may be inserted in the Mysore Insolvency Act.
~~No~~	
Name of Member proposing.	
Mr. L. Siddappa, B.A., LL.B., Shimoga.	

previous references ~~xx~~ relating to the subject.

Remarks by the Deputy Commissioner.

-Nil-

M Venkatesh
Deputy Commissioner,
Shimoga District.

The Association
adopting the resolution
as suggested so as to
examine the whole
administration and
and this may be
passed over to
Secretary.

Sd/ 31/8

Sd/ 31.8

Serial No.

Subd

2) If approved, the Opinion of the High Court may be called for.

3) A draft and fair of a letter is also subd herewith

CSR 9/9

4) Issue by 7.9

Issued No of 1364 Dt 7.9.1938.

From
The Registrar High Court
73 38-39 Dt 21.9.1938.

States that the Judges are of Opinion that it would be advantageous to amend Section 53 of the Mysore Insolvency Act and to add a Section like 59A, on the lines of the Provincial Insolvency Act of British India.

5) A Statement embodying the particulars relating to ~~1938~~ the Sections of the Mysore Insolvency Act as also the corresponding Sections of the Provincial Insolvency Act of British India, is put up for perusal.

6) The proposals of the High Court are for orders

Subd CSR 27/9

7) A note is also subd herewith.

4) Issue as required by 27/-

WD 0284—GPB—30,000—13-8-37

(9) R.A. Section Kindly to put up extract from discussions on the subject

OFFICE OF THE SECRETARY
23 DEC. 1938
PRESENTATIVE ASSEMBLY AND

(10) Please See Flag Y for Extract required Portions relating to First Member have yet to be approved

Protocol
11-1-39.

11.1

(11) Kind reference is invited to the First Member reply to the representation. From the Pro copy of the approved proceedings, it is seen that it has been promised that further actio would be taken in the matter.

(12) Necessary statements are however called for again for orders.

(13) The following points are for orders

(1) whether the Bill may be placed before the R.A. and if

(14) Received instructions to put it during 1940 before resolution R.A.

6400/40

For Disposal by Circulation. **No. C. 612 of 1940-41**

.....193....

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

Subject

Amendment to the Mysore Insolvency Act.

Circulated to the Members of Council.

By Order,

Musammat

.....5th.....May.....194 1. *Chief Secretary to Government.*

First Member of Council. (Seen)

18)

11190/5.5.41 **Second Member of Council.** KCC 6/5

Law Secy. with Compliments.

7.5.41

Hm

7831/815

Sent with a D:F.N

Law Secretary) 3/8157

I Member) Hm 3/815/41

CPM 8/5

11546/9/5/41 3/9/5741

Signed 7.R. is kept in file

S.R. submitted

GLC 10/5 Dewan) Hm 12/5

Final Note by the First Member of Council.

Subject. —

Amendment to the Mysore Insolvency Act.

Representations have been made to Government for amending section 53 of the Mysore Insolvency Act so as to bring it into conformity with section 53 of the Provincial Insolvency Act of British India specifying the date from which the period of two years mentioned in the section should be computed, and also for the addition of a new section corresponding to section 59 A of the Provincial Insolvency Act empowering Insolvency Courts to examine third persons whose evidence would be useful in the proceedings.

The High Court who were consulted in the matter are of opinion that it would be advantageous and proper to amend section 53 of the Mysore Insolvency Act on the lines of the British Indian Act and to incorporate a new section in the Mysore Insolvency Act like section 59 A of the Provincial Insolvency Act.

It is proposed to give effect to the above suggestions.

Paras 17 & 18 & notes

B+C

The Dewan and the Second Member of Council agree with me and I solicit the gracious approval of His Highness for placing the appended Bill and the statement of General Principles of the Bill before the Representative Assembly and introducing the same thereafter in the Legislative Council.

N. Madhava Rau

MEMBER OF COUNCIL.

Bangalore,
10th May 1941.

Amendment to Draft

General and Revenue Secretariat

File No. of 194

Serial No.

14) A Statement of General principles and a draft of a Bill are laid herewith.

CPoor 26/4

After approval of the statement this file may be transmitted to Legis Secy along with this file which have to go before the R.A

The Sketch may be approved

Law Secy) 3 28/4/41

DEWAN'S OFFICE
2. MAY 1941
NO 7488

Hon 28/4

I Member, Hon 2 28/4/4

15) Nil 1/5/41

Hon 2 1/5/41

3 1/5/41

16) This is a Council matter and may be disposed of by circulation.

Dewan) Hon 2

General and Revenue
Secretariat.

C 612

SUBJECT:—

Amendment to the Mysore Insolvency Act

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness orders before/~~after~~ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

Law Department.

Hm 2 19/5/41

12009 19/5/41

FIRST MEMBER OF COUNCIL.

MM 19/5/41

11863 20.5.41

SECOND MEMBER OF COUNCIL.

21.5

Law Secy with Compliments

MM 21.5.41

Hm 2 21/5/41

BKR

WD 02010—GPB—250—19-3-41

The Law Secretary (amendment) Bill

aneral and Revenue Secretariat
R. A. & L. C.

File No. 272/1 of 194

App. F. III-2

Serial No.

DEWAN'S OFFICE
5. NOV. 1941
NO 3735

The Bill is under the R.A. It is for orders as to who will be in charge of the Bill in the R.A. At the last session when the Bill was under (but it was taken up) the Law Secy. was in charge

27.9.41
Secy (R & L)

The Law Secretary may be in charge

SECY. LAW DEPT.
28 SEP. 1941
GOVT OF MYSORE

BNR
27-9-41
Law Secy

Hm
2
28/9/41

The R.A. unanimously approved of the Principles of the Bill.

If approved the Bill will be published under rule 36 of the Mysore Legislative Rules

The St. of Principles will be adopted as the St. of Objects and Reasons.

3.11.41
Law Secy)

May be approved.

Minister for Law)

Hm
2
3/11/41
3.11.41

4/11

Dewan)

Hm
4.11.41
5.11.41

Hm 6/11/41 5.11.41

Mysore Legislative Assembly Secretariat

LC File No. of 1941-42

General and Revenue Secretariat
R. A. & L. C.

Serial No.

OFFICE OF THE SECRETARIAT

The Bill and the Statement of Objects and Reasons may be published in the Gazette as under Rule 36. Early action may be taken to do so.

Is Director's advance notification to be put up for appl.

Dsn
7.11.41

May be approved

Law Secy
7.11.41

Hm
7.11.41

Dsn
7.11.41

The Compiler Mysore Gazette

Vide No RL 907 dated 10.11.41 directs the publication of the Bill mentioned under Rule 36 of the Mysore Legislature

This is a small and non Controversial measure and the following Motions are therefore suggested.

1. Motion that the Bill published under Rule 36 of the Mysore Legislature Rules be taken into Consideration by the Council at once

Move Minister for Law.

Secy Law Secretary

2. Motion that the Bill be passed

Mover: Minister for Law

Seconder Law Secretary

Dsn
11.11.41

Law Secy for her

Minister for Law

Is there any need for a Subcommittee to consider the Bill? Please state.

Dsn
11.11.41

SECY. LAW DEPT.
11 NOV. 1941
GOVT OF MYSORE

Serial No.

the Bill must not be discussed further than is necessary to explain its principle according to S.O.31. When the member in charge moves that his Bill be taken into consideration, any other member may move as an amendment that the Bill be referred to a Select Committee, or be circulated for the purpose of eliciting public opinion. It is left to any member of the House to bring forward an amendment of that type and thereafter the amendment may be accepted by the member in charge or may be opposed. If the amendment is opposed, the House will have a right to discuss the amendment brought forward by the member. If the amendment is lost then the Bill will be taken into consideration at once. Such being the case it is not for the member in charge of the Bill to anticipate an amendment and ask for suspension of S.O.31(2)(a). Last time, the motion was put in the following manner: "Motion that sub-order 2(a) of Standing Order No.31 be suspended and that the Bill published under Rule 36 of the Mysore Legislative Rules be taken into consideration by the Council at once." This form of motion anticipated the sanction of the Council to suspend sub-order 2(a) of the Standing Order No.31. Really, there is no necessity for such a procedure. The present form of motion is the one contemplated under S.O.30. It leaves a member of the Council, if he chooses to do so, to bring forward an amendment to the Bill under S.O.31(2)(a). Of course, in any case, if the House is not willing to take the Bill into consideration, there is no option left to the member but to refer it to the Select Committee or

ver / amendment / Bill

of 194

General and Revenue Secretariat.

Serial No.

circulate it for the purpose of eliciting opinion. But if no member chooses to bring an amendment, the Bill will be taken into consideration immediately. Such being the case, there does not seem to be any necessity to anticipate an amendment to the Bill under S.O.31(2)(a) and try to get the sanction of the House for suspending that Standing Order. The case was different under the old Rule 54. The wording in the old Rule 54 is different from Standing Orders 30 and 31. I am of the view that the motion as now put forward is in order and may be adopted.

OFFICE OF THE MINISTER FOR LAW
DEC 29 1941
No. 6557

OFFICE OF THE MINISTER FOR LAW
NOV 17 1941
No. 5826

for Law) Yes. Please go forward on this basis with drafting publication under orders of Hon'ble

17.11.41

17.11.41

8-11-41

18.11.41

18.11.41

The Motion should be included in agenda

18.11.41

The Bill was passed by the Legislature during its present Session. A Copy of the Bill as passed has been signed by the President and is submitted herein. A.G. & J.N. is put up for Consideration.

27.12.41

Law Secy

D.J.N. submitted

Minister for Law)

J.N. signed.

27.12.41

29/12

27.12.41

S.N. is submitted

31-12-41

Law Secy)

17/11 to include the Motion in the Agenda
BDN.
18-11-41

Noted & returned.
JR
20/11/41
BDN
20/11

Insolvency (amendment) Bill

General and Revenue Secretariat	File No. 242/R of 194	[App. F. III-2
Serial No.		

S. N. Mukherjee
Dewan)

Hm
2
2/11/42.

DEWAN'S OFFICE
3. XI. 1942
NO. 5687

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Law on the subject of the promulgation into law of the Mysore Insolvency (amendment) Bill, for His Highness's gracious approval.

N. Madhava Rao

DEWAN.

Camp Trivandrum,)
)
5th January 1942.)

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation into law of the Mysore Insolvency (amendment) Bill .

Mysore Insolvency (amendment) Act 1942

General and Revenue Secretariat
R. A. & L. C.

Legs File No. 34 of 194 /.

272/42

App. F. III-2

Serial No.

On 6.1.42 the previous assent of His Highness has been accorded to promulgate the Bill into Law.

Draft Go directing its publication as Act No VIII of 1942 is put up

DRS
23.1.42

Secy
RA & Dept)

BCR
27.1.42

Law Secy)

SECY. LAW DEPT. 858 27 JAN 1942 BANGALORE

Hr
2
27.1.42

DSRao
BCR
27.1.42

R.L.1318 - Legis 39-41-1 dated 27th January 1942 to the Compiler Mysore Gazette directs publication of the Mysore Insolvency (Amendment) Act, 1942, as Act No VIII of 1942.

This file will be recorded if approved

DRS
19.5.42

R. O. C. / D. Dis. No. 73/38-37

22 SEP. 1938

HIGH COURT OF MYSORE.
Public Office Buildings, Cubbon Park,

Bangalore, 21st September *1938.*

FROM T. Shamiengar, Esq., B.A., B.L.,
~~A. Sundararaja Rao, Esq., B.A., B.L.,~~
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

CHIEF SECRETARY TO GOVT. OF MYSORE

To

B.T. Kesaviengar, Esq., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

SIR,

In reply to your letter No.P.1364/Cts.51-38-6, dated 7th September 1938, forwarding a copy of a Representation on the subject of amending Section 53 of the Mysore Insolvency Act so as to bring it into conformity with Section 53 of the Provincial Insolvency Act of British India and of inserting a new Section in the Mysore Insolvency Act on the lines of Section 59A of the Provincial Insolvency Act and requesting the opinion of the High Court in the matter, I am directed to state that the Judges are of opinion that it would be advantageous and proper to amend Section 53 of the Mysore Insolvency Act by inserting the words "on a petition presented" before the words "within two years". The Judges are also of opinion that it would be advantageous to add a section like Section 59A of the Provincial Insolvency Act of British India; but they suggest that, if that is done, the power of summoning and examining be given to the Court alone and that no special empowering of the Court by the Government be required.

I have the honour to be,

Sir,

Your most obedient servant,

T. Shamiengar
Registrar.

THE MYSORE REPRESENTATIVE ASSEMBLY.

Dasara Session - 1938.

-----:O:-----

Subject No. 6 by Mr. L. Siddappa, B.A., LL.B., Shimoga -

Re- Amendment to Section 53 of the Mysore Insolvency Act.

Summary of representation -

It is prayed that Section 53 of the Mysore Insolvency Act may be amended so as to conform to the provisions of Section 53 of the Provincial Insolvency Act of British India and that further a fresh section on the lines of Section 59 (a) of the Provincial Insolvency Act may be inserted in the Mysore Insolvency Act.

Secretariat Note -

The High Court were consulted in the matter and they are agreeable for the amendment of Section 53 of the Mysore Insolvency Act so as to bring into conformity with Section 53 of the Provincial Insolvency Act of British India and to the addition of a Section like 59 A of the Provincial Insolvency Act of British India.

In reply to the representation, Government may perhaps say that the proposed amendment and additions will be examined and a Bill will be brought up in due course if considered necessary.

for Chief Secretary to Government.

THE MYSORE REPRESENTATIVE ASSEMBLY.

Dasara Session - 1938.

-----:0:-----

Subject No. 6 by Mr. L. Siddappa, B.A., LL.B., Shimoga -

Re- Amendment to Section 53 of the Mysore Insolvency Act.

Summary of representation -

It is prayed that Section 53 of the Mysore Insolvency Act may be amended as to conform to the provisions of Section 53 of the Provincial Insolvency Act of British India and that further a fresh section on the lines of Section 59 (a) of the Provincial Insolvency Act may be inserted in the Mysore Insolvency Act.

Secretariat Note -

The High Court were consulted in the matter and they are agreeable for the amendment of Section 53 of the Mysore Insolvency Act so as to bring into conformity with Section 53 of the Provincial Insolvency Act of British India and to the addition of a Section like 59 A of the Provincial Insolvency Act of British India.

In reply to the representation, Government may perhaps say that the proposed amendment and additions will be examined and a Bill will be brought up in due course if considered necessary.

for Chief Secretary to Government.

THE MYSORE REPRESENTATIVE ASSEMBLY.

Dasara Session - 1938.

Subject No. 6 by Mr. L. Siddappa, B.A., LL.B., Shimoga -

Re- Amendment to Section 53 of the Mysore Insolvency Act.

Summary of representation -

It is prayed that Section 53 of the Mysore Insolvency Act may be amended so as to conform to the provisions of Section 53 of the Provincial Insolvency Act of British India and that further a fresh section on the lines of Section 59 (a) of the Provincial Insolvency Act may be inserted in the Mysore Insolvency Act.

Secretariat Note -

The High Court were consulted in the matter and they are agreeable to the amendment of Section 53 of the Mysore Insolvency Act so as to bring into conformity with Section 53 of the Provincial Insolvency Act of British India and to the addition of a Section like 59 A of the Provincial Insolvency Act of British India.

In reply to the representation, Government may perhaps say that the proposed amendment and additions will be examined and a Bill will be brought up in due course if considered necessary.

for Chief Secretary to Government.

The High Court were consulted in the matter and they a agreed for the amendment of Section 53 of the Mysor Insolvency Act so as to bring into Conformity with Section 5 of the provincial Insolvency Act British India and to the ad of a Section like 59A of the Provincial Insolvency Act British India.

In reply to the Representation Govt may perhaps say that The proposed amendment should will be examined & a bill may be brought in due Course & considered necessary

No.50. Amendment to section 53 of the Mysore Insolvency Act.

Mr. L. Siddappa (Channagiri Taluk).

Mr. L. SIDDAPPA prayed that section 53 of the Mysore Insolvency Act be amended so as to conform to the provisions of section 53 of the Provincial Insolvency Act of British India and that a fresh section and the clause of section 53(a) of the Act may be inserted in the Mysore Act.

The CHIEF MINISTER replied that the High Court, who were consulted, were agreeable to action being taken as suggested and that therefore Government would take needful further action.

Statement of general principles

Section 53 of the Mysore Insolvency Act does not contain any provision to indicate whether the period of two years within which voluntary transfers are liable to be set aside should be computed from the date of the presentation of the petition for insolvency or from the date of adjudication.

In British India the Provincial Insolvency Act has been amended in 1930 and it has been provided in that Act that the period should be computed from the date of petition.

Representations have been made that this Section of the Mysore Insolvency Act should be similarly amended. The High Court who were consulted in the matter have expressed the opinion that the changes suggested is advantageous and proper.

Section 59(a) of the Provincial Insolvency Act which was added in 1926 enables a Court to examine third perons who could give information respecting the insolvent or his dealings or property in a comparatively confidential and inexpensive manner.

It has been considered desirable to have a similar provision in the law in Mysore. The High Court have also given their opinion that such a section may with advantage be incorporated in the Mysore Act.

The proposed Bill gives effect to these suggestions.

Whereas it is expedient further to amend the Mysore Insolvency Act,

It is hereby enacted as follows:

The Act may be called the Mysore Insolvency (amendment) Act, 194

2. In section 53 of the Mysore Insolvency (hereinafter referred to as the said Act) Act, after the words "transferor is adjudged insolvent" the words "on a petition presented" shall be inserted.

3. After section 59 of the said Act the following section shall be inserted, namely:—

"59A.—

It has been considered desirable to have a similar provision in the law in Mysore. The High Court have also given their opinion that such a section may with advantage be incorporated in the Mysore Act.

The proposed Bill is intended to give effect to these suggestions.

The Mysore Insolvency (amendment) Bill.

WHEREAS it is expedient further to amend the Mysore Insolvency Act, 1925; It is hereby enacted as follows:

Short title.

1. The Act may be called the Mysore Insolvency (amendment) Act, 194

Amendment of section 53, Act XI of 1925.

2. In section 53 of the Mysore Insolvency Act (hereinafter referred to as the said Act), after the words "transferor is adjudged insolvent" the words "on a petition presented" shall be inserted.

Addition of new section 59-A in Act XI of 1925.

3. After section 59 of the said Act, the following section shall be inserted, namely:—

Power to require information regarding insolvent's property.

"59-A. (1) The Court may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent or any person whom the Court may deem capable of giving information respecting the insolvent or his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine any person so brought before it concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner.

NOTIFICATION.

No. Rl. 907, *dated Bangalore the* 7—10*th November* 1941.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Mysore Insolvency (Amendment) Bill, together with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,
Secretary to Government,
Law Department.

STATEMENT OF OBJECTS AND REASONS OF THE MYSORE INSOLVENCY (AMENDMENT) BILL.

Section 53 of the Mysore Insolvency Act does not contain any provision to indicate whether the period of two years within which voluntary transfers are liable to be set aside, should be computed from the date of the representation of the petition for insolvency or from the date of adjudication.

In British India, the Provincial Insolvency Act has been amended in 1930 and it has been provided in that Act that the period should be computed from the date of petition.

Representations have been made that this section of the Mysore Insolvency Act should be similarly amended. The High Court who were consulted in the matter have expressed the opinion that the change suggested is advantageous and proper.

Section 59 (A) of the British Indian Provincial Insolvency Act, which was added in 1926, enables a Court to examine third persons who could give information respecting the insolvent or his dealings or property, in a comparatively inexpensive manner.

10. Statement of principles of the Mysore Insolvency (Amendment) Bill.

The SECRETARY to GOVERNMENT, DEVELOPMENT DEPARTMENT (Mr. V. Vedavyasachary) explained the general principles of the bill as follows:--

The general principles of the Bill were put to vote and passed unanimously.

Appendix F G–1]
R. A. & L. C.

SUBJECT

Section Le.

File No.

Serial No.

No. 907 PL Notification

To

Under the provision of rule 36 of the Mysore Legislature rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the ~~accompany~~ accompanying Mysore Insolvency (Amendment) bill, together with the statement of objects & reasons

B. O.

7.11.41

For Secy to Govt
Land Dept
DR 7.11.41

The Comptroller for publication in Part IV of the Gazette & supply of 350 copies to the Secrett.

Memo no: 908 PL

Copy of the above is fd w. c. the Secy L. D. for information

B. O.

For Secy to Govt
Land Dept
DR

Diary No. of letter replied to.....

General and Revenue Secretariat
R. A. & L. C.

Date of issue 7/11/41

Signed by Mr H. V. Nanjundiah

List of enclosures.....

Copied by.....

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. ....907 RL

General and Revenue Secretariat,

Dated Bangalore, ..7th November 1941.

NOTIFICATION.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the gazette of the accompanying Mysore Insolvency (amendment) Bill, together with the statement of objects and reasons.

By Order,
Sd/- H.V.NARAYANA RAO,

Secretary to Government,
Law Department.

The Compiler, Mysore Gazette, for publication in Part IV of the gazette and supply of 350 copies to the Secretariat.

Memo No. 908 RL Dated, Bangalore, 7th November 1941.

Copy of the above is forwarded with compliments to the Secretary, Legislative Council, for information.

By Order,

Sd/-

For Secretary to Government,
Law Department.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat,

Dated Bangalore

NOTIFICATION

exploitation and employment in unhealthy and dangerous condition, in power factories not subject at present to the Factories Act, by bringing all such factories within the scope of the Act. It may be mentioned in this connection that the Indian Act has been suitably amended to bring all power factories employing 10 or more workers within the purview of the Act.

A Bill to amend the Mysore Factories Act, 1936.

Whereas it is expedient to amend the Mysore Factories Act, 1936;

It is hereby enacted as follows :—

Short title. 1. This Act may be called the Mysore Factories (amendment) Act, 194 .

Amendment of section 2, Act I of 1936. 2. For clause (j) of section 2 of the Mysore Factories Act, 1936 (hereinafter referred to as the said Act), the following clause shall be substituted, namely :—

"(j) 'factory' means any premises including the precincts thereof wherein 10 or more workers are working or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on,

but does not include a Mine subject to the operation of the Mysore Mines Act, 1906;"

Amendment of section 5, Act I of 1936. 3. (a) For sub-section (1) of section 5 of the said Act, the following sub-section shall be substituted, namely :—

"(1) Notwithstanding anything contained in clause (j) of section 2, the Government may, by notification in the official Gazette declare any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the aid of power, and whereon or within the precincts whereof, less than 10 workers are employed, to be a factory for all or any of the purposes of this Act."

(b) Sub-section (3) of section 5 of the Act, shall be omitted.

---

12. STATEMENT OF PRINCIPLES OF THE BILL TO AMEND THE COTTON GINNING AND PRESSING FACTORIES ACT, 1929.

The Cotton Ginning and Pressing Factories Act was passed in 1929 on the lines of the corresponding British Indian Act of 1925. In British India, as a result of the recommendations of the Indian Central Cotton Committee, certain amendments were made in 1939. The present Bill seeks to incorporate them in the Mysore Act.

The amendment proposed to section 9 is intended to meet complaints that in certain cotton ginning and pressing factories, the construction of which was commenced or completed before the Act came into operation, additions or alterations are made which are not in accordance with the prescribed specifications. By this amendment, the factory owner making alterations or additions to his factory has to conform to the requirements of sub-section (1) of section 9.

The Mysore Insolvency (amendment) Bill.

WHEREAS it is expedient further to amend the Mysore Insolvency Act, 1925: It is hereby enacted as follows:

1. The Act may be called the Mysore Insolvency (amendment) Act, 194 Short title.

2. In section 53 of the Mysore Insolvency Act (hereinafter referred to as the said Act), after the words "transferor is adjudged insolvent", the words "on a petition presented" shall be inserted.

3. After section 59 of the said Act, the following section shall be inserted, namely:

"59-A. (1) The Court may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent or any person whom the Court may deem capable of giving information respecting the insolvent or his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known and allowed by the Court, the Court may, by warrant, cause him to be apprehended and brought up for examination.

The Court may examine any person so brought before it concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner

application within two years of the date of disposal of the first application."

Amendment of section 14, Act VI of 1937.

7. In section 14 of the said Act,—

(1) the second proviso to sub-section (1) shall be omitted;

(2) sub-sections (2), (3) and (4) shall be re-numbered as sub-sections (3), (4) and (5), respectively, and after sub-section (1), the following sub-section shall be inserted, namely:—

"(2) When creditors to whom more than 50 per cent of the total debt is owing, agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer:

Provided that for the purpose of this sub-section an offer shall not be considered by the Board to be a fair offer if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description;"

(3) in sub-section (3) as re-numbered, after the figure and brackets, "(1)", the following words, figure and brackets shall be inserted, namely:—

"or an order passed under sub-section (2)"; and

(4) the following sub-section shall be inserted at the end, namely:—

"(6) When a secured creditor does not agree to the settlement under sub-section (1) and in cases governed by sub-section (2) such refusal is not considered unfair by the Board when passing an order, such settlement or order shall not affect his rights to proceed against the secured property."

Insertion of new section 14-A in Act VI of 1937.

8. After section 14 of the said Act, the following section shall be inserted, namely:—

"14-A. When an agreement or an order registered under sub-section (3) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement or the order, until such amount has been paid or the property has been sold for the satisfaction of such debt."

Insertion of new sections 18-A to 18-D in Act VI of 1937.

9. After section 18 of the said Act, the following sections shall be inserted, namely:—

"18-A. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or order registered under the provisions of this Act, or if, in any case, the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Deputy Commissioner for permission to deposit such amount with him.

Power to deposit amount of instalment with the Deputy Commissioner.

(2) An application made under sub-section (1) shall be in writing and shall contain—

(*a*) a statement of the grounds on which it has been made,

(*b*) the name of the creditor to whose credit the deposit is to be entered, and

(*c*) the name of the person to whom payment was last made and of the person now claiming it.

18-B. (1) If it appears to the Deputy Commissioner that the applicant is entitled to make the deposit under section 18-A, he shall receive such deposit and give a receipt therefor.

(2) The Deputy Commissioner shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a Civil Court as to the person entitled to it

18-C. A debtor who has made a deposit under section 18-B shall be held to have fulfilled the terms of the agreement or the order.

Bar of suits and other legal

18-D. No suit or other legal proceeding shall be instituted against any officer in respect of anything done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18-B.

10. In sub-section (1) o
the word "and" at the end of

G. R. S. VI.—s-III/14]

DRAFT.

SUBJECT.....

.....

.....

Section. Legis
File No. ~~34~~ 39-4
Serial No. 1

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT,
( )
the.....*191*

Date of issue.....

Signed by.....

Proceedings of the Government of H. H. the Maharaja of Mysore.

Order No. R. L. 13.18.

Ordered that the accompanying..... Act further to amend the Mysore Insolvency Act, 1935 .....

which received the assent of His Highness the Maharaja, on the 6th day of January 1942 be published as ~~Regulation~~ Act No. VIII of 1942, in the *Mysore Gazette* for general information.

27.1.42

27.1.42 *Secretary to Government.*
Law Department

May this be

(i) Printed

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada to this office; and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.

Spare copies as per standing order

List of enclosures.

Copied by.....

Examined by.....

It has been considered desirable to have a similar provision in the law in Mysore. The High Court have also given their opinion that such a section may with advantage be incorporated in the Mysore Act.

The proposed Bill is intended to give effect to these suggestions.

Act no VIII of 1962

(Received the assent of His Highness the Maharaja on the 16th day of January 1962)

The Mysore Insolvency (amendment) ~~Bill~~ Act 1962

WHEREAS it is expedient further to amend the Mysore Insolvency Act, 1925; It is hereby enacted as follows:—

Short title.

1. The Act may be called the Mysore Insolvency (amendment) Act, 1962.

Amendment of section 53, Act XI of 1925.

2. In section 53 of the Mysore Insolvency Act (hereinafter referred to as the said Act), after the words "transferor is adjudged insolvent" the words "on a petition presented" shall be inserted.

Addition of new section 59-A in Act XI of 1925.

3. After section 59 of the said Act, the following section shall be inserted, namely:—

Power to require information regarding insolvent's property.

"59-A. (1) The Court may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the insolvent or any person whom the Court may deem capable of giving information respecting the insolvent or his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine any person so brought before it concerning the insolvent, his dealings or property, and such person may be represented by a legal practitioner.

NOTIFICATION.

No. Rl. 907, *dated Bangalore, the* 7—10*th November* 1941.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Mysore Insolvency (Amendment) Bill, together with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,
Secretary to Government,
Law Department.

STATEMENT OF OBJECTS AND REASONS OF THE MYSORE INSOLVENCY (AMENDMENT) BILL.

Section 53 of the Mysore Insolvency Act does not contain any provision to indicate whether the period of two years within which voluntary transfers are liable to be set aside, should be computed from the date of the representation of the petition for insolvency or from the date of adjudication.

In British India, the Provincial Insolvency Act has been amended in 1930 and it has been provided in that Act that the period should be computed from the date of petition.

Representations have been made that this section of the Mysore Insolvency Act should be similarly amended. The High Court who were consulted in the matter have expressed the opinion that the change suggested is advantageous and proper.

Section 59 (A) of the British Indian Provincial Insolvency Act, which was added in 1926, enables a Court to examine third persons who could give information respecting the insolvent or his dealings or property, in a comparatively inexpensive manner.

NOTIFICATION

Order No. R. L. 1318—*Legis.* 39-41-1, *dated Bangalore the 27th January* 1942.

Ordered that the accompanying Act further to amend the Mysore Insolvency Act, 1925, which received the assent of His Highness the Maharaja, on the 6th day of January 1942, be published as Act No. VIII of 1942, in the *Mysore Gazette* for general information.

H. V. NARAYANA RAO,
Secretary to Government,
Law Department.

ACT No. VIII OF 1942.

The Mysore Insolvency (Amendment) Act, 1942.

(*Received the assent of His Highness the Maharaja on the 6th day of January* 1942.)

WHEREAS it is expedient further to amend the Mysore Insolvency Act, 1925;

It is hereby enacted as follows:—

Short title.

1. The Act may be called the Mysore Insolvency (amendment) Act, 1942.

Amendment of section 53, Act XI of 1925.

2. In section 53 of the Mysore Insolvency Act (hereinafter referred to as the said Act), after the words "transferor is adjudged insolvent" the words "on a petition presented" shall be inserted.

Addition of new section 59-A in Act XI of 1925.

3. After section 59 of the said Act, the following section shall be inserted, namely:—

Power to require information regarding insolvent's property.

"59-A. (1) The Court may, on the application of the receiver or any creditor who has proved his debt, at any time after an order of adjudication has been made, summon before it in the prescribed manner any person known or suspected to have in his possession any property belonging to the insolvent, or supposed to be indebted to the

insolvent or any person whom the Court may deem capable of giving information respecting the insolvent or his dealings or property, and the Court may require any such person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court, the Court may, by warrant, cause him to be apprehended and brought up for examination.

(3) The Court may examine any person so brough before it concerning the insolvent, his dealings or property and such person may be represented by a legal practi tioner."

N. MADHAVA RAU,
Dewan.

Where a Bill is published under rule 36 of the Mysore Legislative Rules, it is not necessary to move for leave to introduce the Bill. In the present case,as the Bill has been published under this rule, no motion for leave to introduce is necessary.

The procedure to be followed thereafter is set out in the Standing Orders. S.O.29 which refers to a motion for leave to introduce does not apply in this case. S.O.30 refers to the next motion that is to be made being one of the three specified therein. It is when introducing a Bill (or on a subsequent occasion) that such motion can be made. It is significant that neither the Rules nor the Standing Orders refer to a motion to introduce. In the Central Legislative Assembly (whose rules are identical with ours in this respect) the practice appears to be that as soon as motion for leave to introduce is carried the Bill is introduced, the next motion ~~being~~ (one of those set out in our S.O.30) being made on a subsequent occasion.

Where the motion for leave to introduce is dispensed with under rule 36, the result appears to be that the Bill should be deemed to have been introduced in the Council. Rule 35(5) seems to bear out this view. It is stated therein (in respect of non-official Bills) that where a motion for leave to introduce is carried the Bill shall be

introduced. Introduction therefore appears to be the result of a motion for leave to introduce being carried and where such a motion is dispensed with the Bill must be deemed to have been introduced.

At the last session of the Legislative Council motions were tabled for suspending the Standing Orders and moving that the Bill be taken into consideration. It is submitted that suspension of the Standing Orders is unnecessary. S.O.30 gives Government the right to move that the Bill be taken into consideration without suspending any Standing Order for this purpose. In such a case no doubt any member may move as an amendment under S.O.31(2)(a) that the Bill be referred to a Select Committee or be circulated for eliciting public opinion. Such a motion will have to be opposed if moved. Just as it is open to a majority of of the House not to accept a motion for suspending the Standing Orders in the one case, in the other case it is equally open to the same majority to adopt the amending motion for reference to a Select Committee or even to turn down the substantive motion to consider the Bill.

Under the old rules the practice was no doubt to move for suspending the Standing Orders. This was evidently because under S.O.54 the Council could not proceed to take

the Bill into consideration until the expiration of 15 days from the date on which the Bill was read in the Council. This Standing Order had to be suspended if the Bill were to be passed at once.

There is therefore no special or peculiar danger in not suspending the Standing Orders before moving that the Bill be taken into consideration.

The motions put up appear to be therefore in accordance with the Rules and Standing Orders.

14-11-41

to have in his possession any property belonging to the insolv or supposed to be indebted to insolvent, or any person whom Court or such officer, as the Co may be, may deem capable of giving information respecting t insolvent or his dealings or pro and the Court or such officer may require any such perso to produce any documents i his custody or power relating the insolvent or to his dealings property

2) If any person so summoned after having been tendered a reasonable sum, refuses to come before the Court or such officer at the time appointe , refuses to produce any such document, having no law impediment made known to an allowed by the Court or such of the Court or such officer may by Warrant, cause him to b apprehended and brought u for Examination.

(3) The Court or such Officer may examine any person so brought before it or him concerning the insolvent his dealings or property, and such person may be represented by a legal practitioner.